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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,504	12/31/2003	Richard K. Rood	711-P-11	1815
7590	02/15/2005		EXAMINER	
Gregory J. Nelson NELSON & ROEDIGER Suite 212 3333 E. Camelback Road Phoenix, AZ 85018			TILL, TERRENCE R	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 02/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/750,504	ROOD, RICHARD K	
	Examiner	Art Unit	
	Terrence R. Till	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) 5,6,8-13,15-17,19 and 20 is/are allowed.
- 6) Claim(s) 1,2,4,7,14 and 18 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 January 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: ____ .

DETAILED ACTION

Response to Amendment

1. The indicated allowability of claim 3, now amended into claim 1, is withdrawn in view of the newly discovered reference(s) to Richardson. Rejections based on the newly cited reference(s) follow.

Drawings

2. The drawings were received on 1/3/05. These drawings are not accepted.
3. In the proposed drawing correction, applicant still has reference character "44" identifying two distinct elements. See proposed figure 2.

Specification

4. The disclosure is objected to because of the following informalities: On page 5, line 12, "116" should be --116A-- as reference character "116" is part of the housing; not the inlet. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 2, 4, 14 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. With respect to claims 2 and 4, the limitations recited are drawn to the embodiment shown in figures 5 and 6. Since claim 1 is now limited to the first embodiment of figures 1, 2 and 4, claims 2 and 4 recite structure that is not usable with the first embodiment. This renders the scope of the claims confusing. With respect to claims 14 and 18, both claims recite the inlet surface including projections extending outwardly at the edges of the inlet. These features are exclusively part of the first embodiment. These features are in conflict with claims 6 and 8, which are directed to the second embodiment of figures 5 and 6. The scope of the claims are therefore confusing.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK patent to Pendlebury (cited already) in view of Richardson.

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11. The UK patent to Pendlebury discloses a vacuum dustpan for collecting debris from a floor surface comprising: a housing 12 having a debris collection chamber 32 and defining an inlet 18 having a top and opposite edges; a vacuum means 26 for generating a flow of air from said inlet to said collection chamber. The patent to Richardson discloses a dustpan arrangement having a housing 1 said housing including an inlet surface 5 configured to direct debris into said inlet wherein said inlet surface includes projections 6 which extend outwardly at the edges of said inlet. It would have been obvious to a person skilled in the art at the time the invention was made to provide the device of Pendlebury with an inlet surface that includes projections which extend outwardly at the edges of said inlet in order to direct debris into the housing (see Richardson page 1, lines 30-35 and 70-85).

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over UK patent to Pendlebury, as modified by Richardson, as applied to claim 1 above, and further in view of Robinson (cited already).

13. Pendlebury, as modified by Richardson, does not disclose said collection chamber comprises a removable bin, but rather a removable bag. However, the patent to Robinson discloses a vacuum dustpan in which the collection chamber does have a removable bin. Therefore, because these two types of debris receptacles were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the removable bag of Pendlebury for the removable bin of Robinson.

Allowable Subject Matter

14. Claims 5, 6, 8-13, 15-17, 19 and 20 are allowed.

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Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Noe disclose a vacuum cleaner with an auxiliary inlet and Coker discloses a device that assists debris into a bag that has an inlet surface and side projection surfaces.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrence R. Till whose telephone number is (571) 272-1280. The examiner can normally be reached on Mon. through Thurs. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Terrence R. Till
Primary Examiner
Art Unit 1744

trt